

Serial No. 10/663,377

Docket No. 17565 (AP)

**REMARKS**

The Examiner required the Applicants to elect between seven groups of claims, as follows:

- I. Claims 7, and 56-60, directed to polynucleotides;
  - 5 II. Claims 1-4, directed to polypeptides;
  - III. Claims 5-6, directed to COX-1 variant binding agents;
  - IV. Claim 8-18, directed to a method for identifying a compound which modulates a COX-1 variant;
  - 10 V. Claim 19-27, directed to a method for identifying a compound that specifically binds to a COX-1 variant;
  - VI. Claims 28-41, directed to a method for identifying compounds that differentially modulate a COX-1 variant; and
  - VII. Claims 42-55, directed to a method for identifying compounds that differentially bind to a COX-1 variant.
- 15 The Examiner further required the Applicants to elect one of the amino acid or nucleotide sequences of groups A-E and one of the amino acid sequences of groups 1-2.

20 The Applicants provisionally elect the claims of group I (claims 7 and 56-60), the nucleic acid of group A (the nucleic acid encoding the amino acid sequence of SEQ ID NO:2) and the amino acid sequence of group 1. The Applicants respectfully disagree, however, that the restriction requirement is proper.

The Applicants respectfully submit that an appropriate group of claims to examine is claims 1-3 and 5-7, as amended.

Serial No. 10/663,377

Docket No. 17565 (AP)

A restriction requirement is appropriate only when the claims define inventions that are independent or distinct and there is a "serious burden" on the Examiner. MPEP § 803. That inventions are independent or distinct, without more, cannot support a restriction requirement:

- 5 If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.
- Id.* The Office has determined that in most cases there is no burden where the claims require the Examiner to examine ten or fewer sequences. MPEP § 803.04
- 10 ("normally ten sequences constitute a reasonable number for examination purposes").

- The Applicants have amended claims 1-3 and 5-7 such that those claims recite, in total, only four sequences (SEQ ID NOS: 2, 8, 14, and 16). This is well within the rule that sequences numbering less than ten do not burden the Examiner.
- 15 Four of the claims (claims 1, 2, 3, and 7) are directed to the polypeptides represented by these sequences or cells expressing them; and the remaining claims (claims 5-7) are directed to binding agents, such as antibodies or antigen binding fragments, that bind to two of the recited sequences (SEQ ID NOS: 14 and 16). Examining these claims would not burden the Examiner, requiring little more than a search of four
- 20 sequences, a number that the Office has already determined to be reasonable.

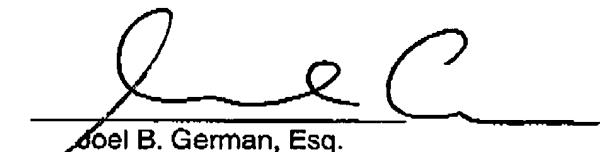
For the foregoing reasons the Applicants respectfully submit that examining claims 1-3 and 5-7, as amended, pose no burden on the Office, and respectfully request that the Examiner examine them on the merits.

Serial No. 10/663,377

Docket No. 17565 (AP)

The undersigned authorizes the Director to charge any fees required or necessary for the filing, processing or entering of this paper or any of the papers transmitted with it, and to refund any overpayment, to deposit account 01-0885.

Respectfully submitted,

  
\_\_\_\_\_  
Joel B. German, Esq.  
Attorney of Record  
Registration No. 48,676

Date: March 8, 2008

Please direct all correspondence and inquiries to:

Joel B. German, Esq.  
Allergan, Inc.  
2525 Dupont Drive, T2-7H  
Irvine, CA 92612  
Tel: (714) 246- 4920  
Fax: (714) 246-4249